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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Daniel Doria,

10 Plaintiff,

11 v.

12 Verde River RV Resort & Cottages, et al.,

13 Defendants.
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No. CV-23-08008-PCT-DLR

ORDER

15 Plaintiff Daniel Doria, an Arizona resident, sues two Arizona companies and seeks
16 a temporary restraining order against them. This Court has an independent obligation to
17 address whether it has subject-matter jurisdiction over cases on its docket. *Allstate Ins. Co.*
18 *v. Hughes*, 358 F.3d 1089, 1093 (9th Cir. 2004). As explained below, the Court lacks
19 subject-matter jurisdiction over this case, so it must be dismissed.

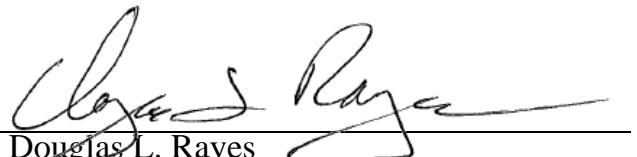
20 “A federal court is presumed to lack jurisdiction in a particular case unless the
21 contrary affirmatively appears.” *Gen. Atomic Co. v. United Nuclear Corp.*, 655 F.2d 968
22 (9th Cir. 1981). Subject-matter jurisdiction comes in two flavors. First, there’s diversity
23 jurisdiction, which exists “when each defendant is a citizen of a different state from each
24 plaintiff,” and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332; *Dolch v.*
25 *United Cal. Bank*, 702 F.2d 178, 181 (9th Cir. 1983). Second, there’s federal question
26 jurisdiction, which exists when the complaint includes claims that “arise under the
27 Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

28 The Court lacks diversity jurisdiction because Plaintiff and Defendants all are from

1 the same state. That leaves federal question jurisdiction, which Plaintiff attempts to
2 manufacture by alleging Defendants have violated 18 U.S.C. §§ 1028, 2261A. But these
3 are federal criminal statutes, which generally do not provide for a private civil right of
4 action. *See Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980); *Rhodes v. Robinson*,
5 399 F. App'x 160, 165 (9th Cir. 2010) ("Only the U.S. Attorney can initiate criminal
6 proceedings in federal court."). A party asserting such a private right bears the burden of
7 establishing its existence. *Stupy v. United States Postal Serv.*, 951 F.2d 1079, 1081 (9th
8 Cir.1991) (identifying factors that may establish a private right of action conferred under a
9 criminal statute). And here "Plaintiff has provided no authority or argument supporting his
10 implicit contention that he may maintain a private right of action under th[ese] criminal
11 statute[s]." *Yeager v. City of San Diego Cal.*, No. 05CV2089-BEN (WMC), 2007 WL
12 7032933, at *9 (S.D. Cal. June 1, 2007). This jurisdictional defect is not curable by
13 amendment; no additional facts will transform Plaintiff, a private citizen, into a United
14 States Attorney. *See Bailey v. Clarke*, No. 12-CV-1100-IEG KSC, 2012 WL 6720628, at
15 *2 (S.D. Cal. Dec. 21, 2012) (dismissing private individual's attempt to state criminal
16 claims). With no cognizable federal claims at issue, this Court lacks federal question
17 jurisdiction. If Plaintiff wants to proceed with his state law claims against Defendants, he
18 must file his lawsuit in state, rather than federal, court.

19 **IT IS ORDERED** that this matter is **DISMISSED WITHOUT PREJUDICE** for
20 lack of subject-matter jurisdiction. The Clerk of the Court shall terminate any pending
21 motion and close this case.

22 Dated this 20th day of January, 2023.

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27 Douglas L. Rayes
28 United States District Judge